

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

TIMOTHY J. OGSBURY,

Plaintiff,

- v -

Civ. Nos. 1:09-CV-35 (LEAD)

1:09-CV-36 (MEMBER)

(LEK/RFT)

ONEBEACON INS. GROUP,

Defendant.

APPEARANCES:

OF COUNSEL:

TIMOTHY J. OGSBURY
Plaintiff, *Pro Se*
70 Esopus Drive
Clifton Park, New York 12065

RANDOLPH F. TREECE
United States Magistrate Judge

REPORT-RECOMMENDATION and ORDER

On January 12, 2009, *pro se* Plaintiff Timothy Ogsbury initiated two separate civil actions in this Court against Defendant OneBeacon Insurance Group. *See* Civ. Nos. 1:09-CV-35 (RFT/TJM) & 1:09-CV-36 (GLS/RFT). At the time Plaintiff initiated these actions, he sought permission to proceed *in forma pauperis*.¹ On February 25, 2009, this Court issued an Order which, *inter alia*, consolidated Plaintiff's two pending actions, with case number 1:09-CV-35 designated as the lead case, and denied Plaintiff's Motions to Proceed *In Forma Pauperis*. Dkt. No. 4. We directed Plaintiff to pay the entire filing fees required in both cases in order for these matters to proceed. *Id.* at pp. 2-3. We further advised that "unless [Plaintiff] pays the \$350.00 filing fees in full for both actions within **thirty (30) days** of the filing date of [that] Order, this Court [would]

¹ Ogsbury also sought court appointed counsel, which was denied.

recommend dismissal of this action.” *Id.* at p. 3 (emphasis in original). More than three months have elapsed since the Court issued that Order and Plaintiff has not yet paid the required fees; his failure to submit the required fees warrants dismissal of these matters. N.D.N.Y.L.R. 5.2(a).

WHEREFORE, it is hereby

RECOMMENDED, that the above entitled actions be **DISMISSED** due to Plaintiff’s failure to comply with the Court’s Order and pay the filing fees in full; and it is further

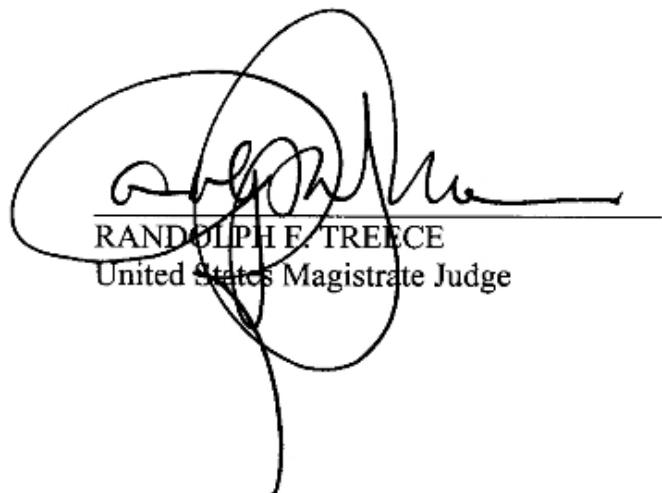
ORDERED, that the Clerk of the Court serve a copy of this Report-Recommendation and Order upon the parties to this action.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have ten (10) days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court.

FAILURE TO OBJECT TO THIS REPORT WITHIN TEN (10) DAYS WILL PRECLUDE

APPELLATE REVIEW. *Roldan v. Racette*, 984 F.2d 85, 89 (2d Cir. 1993) (citing *Small v. Sec’y of Health and Human Servs.*, 892 F.2d 15 (2d Cir. 1989)); *see also* 28 U.S.C. § 636(b)(1); FED. R. Civ. P. 72, 6(a), & 6(e).

Date: June 25, 2009
Albany, New York



RANDOLPH F. TREECE
United States Magistrate Judge